

## REMARKS

Claims 1-110 are pending. In this Response, claims 1-11 have been amended, and claims 12-110 have been added.

### I. SPECIFICATION OBJECTION

The Specification is objected to because on page 5, line 21, step 146 should be step 106 according to Figure 2A. The Specification at this passage indicates that step 146 can be performed. The Specification also illustrates a sample method of storing fingerprinted content in which step 106 includes step 146 in Figure 3. Accordingly, the Specification has been amended to recite “step 146 (Fig. 3)” at this passage. Therefore, Applicant requests that this objection be withdrawn.

### II. SECTION 102 REJECTIONS – MAENZA

Claims 1 and 2 are rejected under 35 U.S.C. § 102(b) as being anticipated by *Maenza* (U.S. Patent 6,076,165).

*Maenza* discloses a method of authenticating digital storage devices such as compact discs, CD-Roms, DVDs and floppy discs. In the original storage device, a fingerprint encoder embeds a fingerprint code in the parity bytes. The fingerprint code can be any predetermined code (predetermined error type and rate pattern) that can be stored in the parity bytes. However, in a duplicate storage device copied from the original storage device, the fingerprint code is not transferred because standard duplicating equipment lacks the fingerprint encoder. As a result, a playback device detects that the duplicate storage device lacks the fingerprint code and acts accordingly.

Claim 1 as amended herein recites “the source fingerprint is a physical attribute of the source storage medium.” *Maenza* fails to teach or suggest that the fingerprint code is a physical attribute of the digital storage device, as the Examiner apparently recognizes by not rejecting claims 3 and 5-11. Claim 2 depends from claim 1.

Under 35 U.S.C. §102, anticipation requires that each and every element of the claimed invention be disclosed in the prior art. *Akzo N.V. v. United States International Trade Commission*, 1 USPQ 2d 1241, 1245 (Fed. Cir. 1986), *cert. denied*, 482 U.S. 909 (1987). That is, the reference must teach every aspect of the claimed invention. M.P.E.P. § 706.02.

Therefore, Applicant requests that these rejections be withdrawn.

### III. SECTION 102 REJECTIONS – STEBBINGS

Claims 1, 2 and 4 are rejected under 35 U.S.C. § 102(b) as being anticipated by *Stebbing*s (U.S. Patent 6,684,199).

*Stebbing*s discloses a method for preventing unauthorized copying of data. In the original storage device, predetermined errors that provide a decryption key are intentionally embedded in the data. The playback device includes a Reed-Solomon decoder that not only corrects the predetermined errors, but also removes the predetermined errors from the audio. As a result, the storage device is stripped of the necessary decryption key required for subsequent playback by another playback device.

*Stebbing*s makes clear that the predetermined errors are devised independently of the storage device:

In this embodiment, the data media is a CD 20 onto which predetermined errors are intentionally embedded. . . . These errors are mixed and edited with the original data before being burned into a master disc, which is replicated to produce a desired number of CDs. (Col. 20, lines 53-56).

Claim 1 as amended herein recites “the source fingerprint is a physical attribute of the source storage medium.” *Stebbing*s fails to teach or suggest that the predetermined errors are a physical attribute of the storage device, as the Examiner apparently recognizes by not rejecting claims 3 and 5-11. Claims 2 and 4 depend (directly or indirectly) from claim 1.

Under 35 U.S.C. §102, anticipation requires that each and every element of the claimed invention be disclosed in the prior art. *Akzo N.V. v. United States International Trade Commission*, 1 USPQ 2d 1241, 1245 (Fed. Cir. 1986), *cert. denied*, 482 U.S. 909 (1987). That is, the reference must teach every aspect of the claimed invention. M.P.E.P. § 706.02.

Therefore, Applicant requests that these rejections be withdrawn.

#### **IV. SECTION 103 REJECTIONS – STEBBINGS AND AUCSMITH**

Claims 3 and 5-11 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Stebbing* in view of *Aucsmith* (U.S. Patent 6,148,407).

*Aucsmith* discloses a method for computer platform identification.

*Aucsmith* considers a single component identifier (such as manufacturer, model, and/or performance traits) to be problematic.

The use of any single component identifier (e.g., manufacturer, model, and/or performance traits) is problematic for a number of reasons. First, component identifiers, such as Ethernet addresses, are not universally available in every platform. Second, such component identifiers are generally not unique. For example, BIOS (Basic Input / Output Software) identifications are neither unique nor universally available. Additionally, the use of a single identifier, such as a central processing unit identification (CPUID) may prove problematic when the system is upgraded. Any such scheme relying on a single component identifier will fail if the component is replaced with a higher performance component as is routinely done in the process of upgrading. (Col. 1, lines 40-53).

*Aucsmith* solves this problem by generating a computer platform identification, or fingerprint, using a plurality of computer system traits. In this manner, the fingerprint provides a reasonably unique identification that accommodates platform upgrades occurring during the platform's lifetime.

The traits are characteristics, preferences, or qualities in the computer system which may or may not be subject to change through-out the life of the computer system. Traits include hardware attributes, such as manufacturer and performance characteristics, software versions, and user preferences. For instance, traits include the processor ID, the cache ID, the RAM size, the hard drive number and capacity of disks, the network card address, the modem ID and speed, the video card manufacturer, the CD ROM type, the operating system manufacturer and version, and preferences selected for use with the operating system or application programs.

Claim 1 as amended herein recites “the source fingerprint is a physical attribute of the source storage medium.” Claims 3 and 5-7 depend (directly or indirectly) on claim 1, and claims 8-11 recite similar limitations. *Stebbing*s fails to teach or suggest that the predetermined errors are a physical attribute of the storage device. *Aucsmith* fails to teach or suggest that the predetermined errors should be replaced by the platform identifier.

The predetermined errors, by definition, are predetermined, whereas the platform identifier is a unique fingerprint based on a plurality of traits. The predetermined errors are burned into a master disc, then stamped from the master disc onto the original CDs during volume manufacturing, and then removed from the original CDs during initial playback.

*Aucsmith* fails to teach or suggest that the predetermined errors burned into the master disc should be customized (a platform identifier) to reflect a physical attribute of each original CD being stamped, as this makes absolutely no sense. This would defeat the purpose of creating the master disc to stamp original CDs, and would be completely unnecessary since the original playback device removes the predetermined errors.

In sustaining these rejections, the Examiner states as follows:

It would have been obvious to one of ordinary skill in the art at the time of the invention to employ the use of defining these classes of characteristics, as Aucsmith teaches, in the system of Stebbings so as to effectively protect data security in each characteristic system.

The rejection is flawed for several reasons.

First, *Aucsmith* is non-analogous to the present invention. *Aucsmith* is directed to computer platform identification. The present invention, on the other hand, is directed to an extremely secure method of keying stored content to a specific storage device. In order to be analogous art, the reference must either be in the field of the invention or be reasonably pertinent to the particular problem with which the inventor was concerned (M.P.E.P. § 2141.01(a)). *Aucsmith* is neither within the field of the invention (data storage) nor pertinent to the particular problem with which the inventor was concerned (extremely secure data storage on a specific storage device to prevent unauthorized copying). Therefore, *Aucsmith* is non-analogous to the present invention and cannot be used to sustain an obviousness rejection.

Second, *Aucsmith* fails to teach or suggest the proposed modification that the predetermined errors in *Stebbing*s be replaced by the platform identifier in *Aucsmith*. The proposed modification would require a platform identifier that reflects a physical attribute of an individual CD be burned into the master disc used to stamp large quantities of original CDs. This would defeat the purpose the master disc, thereby rendering *Stebbing*s unsatisfactory for its intended purpose.

Third, the Examiner has failed to explain how or why the proposed modification would “effectively protect data security.” *Stebbing*s teaches an effective data security protection scheme in which the original playback device removes the predetermined errors, thereby preventing a subsequent playback device from functioning. Unique predetermined errors would serve no purpose since the subsequent playback device would never see them. The proposed modification would do nothing to enhance data security protection in *Stebbing*s, and instead, would vastly complicate manufacturing without providing a benefit. Thus, the Examiner has failed to establish any motivation for the proposed modification.

Fourth, even if the proposed modification was made (although there is no teaching, suggestion or motivation to do so), the Examiner has failed to explain what traits in *Aucsmith* could be applied to uniquely identify an original CD (or data storage device) in *Stebbing*s. *Aucsmith* lists numerous traits for a computer platform, however the listed traits for a data storage device (such as the number or capacity of disks) would fail to uniquely identify the data storage device.

To establish a prima facie case of obviousness (1) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine reference teachings; (2) there must be a reasonable expectation of success; and (3) the prior art reference (or references when combined) must teach or suggest all the claim limitations (MPEP § 2143). See also *C.R. Bard, Inc. v. M3 Systems, Inc.*, 157 F.3d 1340, 1351 (Fed. Cir. 1998).

It is insufficient that the prior art shows similar components unless it also contains some teaching, suggestion or incentive for arriving at the claimed structure. See *Northern Telecom, Inc. v. Datapoint Corp.*, 908 F.2d 931, 934 (Fed. Cir. 1990).

Moreover, if the proposed modification would render the prior art unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification (M.P.E.P. § 2143.01).

Therefore, Applicant requests that these rejections be withdrawn.

## **V. OTHER AMENDMENTS**

The Abstract, Specification and Claims have been amended to improve clarity. No new matter has been added.

## **VI. NEW CLAIMS**

Claims 12-110 have been added to clarify and explicate various features of the invention. No new matter has been added.

Claims 12-13, 14-15, 16-17, 18-19 and 20-21 depend from claims 1 and 8-11, respectively.

Claim 22 recites “the source fingerprint is a physical attribute of the hard disk drive .” *Maenza* fails to teach or suggest that the fingerprint code is a physical attribute of a hard disk drive, *Stebbing* fails to teach or suggest that the predetermined errors are a physical attribute of a

hard disk drive, and *Aucsmith* fails to cure these deficiencies. Claims 23-50 depend (directly or indirectly) from claim 22.

Claim 51 recites “the source fingerprint is a physical, statistically unique, verifiable and relatively immutable (PSUVI) characteristic of the hard disk drive.” *Maenza* fails to teach or suggest that the fingerprint code is a PSUVI characteristic of a hard disk drive, *Stebbing*s fails to teach or suggest that the predetermined errors are a PSUVI characteristic of a hard disk drive, and *Aucsmith* fails to cure these deficiencies. Claims 52-60 depend (directly or indirectly) from claim 51.

Claim 61 recites “providing a media detect list of the hard disk drive.” *Maenza* fails to teach or suggest that the fingerprint code is a media detect list of a hard disk drive, *Stebbing*s fails to teach or suggest that the predetermined errors are a media detect list of a hard disk drive, and *Aucsmith* fails to cure these deficiencies. Claims 62-70 depend (directly or indirectly) from claim 61.

Claim 71 recites “the first source fingerprint is a physical, statistically unique, verifiable and relatively immutable (PSUVI) characteristic of the first hard disk drive.” *Maenza* fails to teach or suggest that the fingerprint code is a PSUVI characteristic of a hard disk drive, *Stebbing*s fails to teach or suggest that the predetermined errors are a PSUVI characteristic of a hard disk drive, and *Aucsmith* fails to cure these deficiencies. Claims 72-110 depend (directly or indirectly) from claim 71.

## **VII. CLAIM RENUMBERING**

Should the application be in condition for allowance, Applicant suggests renumbering claims 8-19 as claims 10, 13, 16, 19, 8, 9, 11, 12, 14, 15, 17 and 18, respectively.



### VIII. FEES

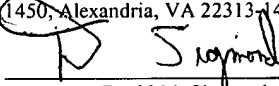
The fee is calculated below:

For	Claims Remaining After Amendment	Highest Number Previously Paid For		Extra Claims	Rate		Additional Fee
Total Claims	110	- 20	=	80	x \$18	=	\$1620
Independent Claims	9	- 5	=	4	x \$84	=	\$336
Multiple Dep. Claim	0	0			\$280	=	\$0
Total Fee						=	\$1956

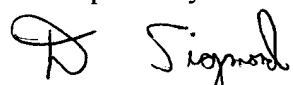
Please charge the \$1956 fee and charge any underpayment and credit any overpayment to Deposit Account No. 13-0016/Q00-1000-US1.

### IX. CONCLUSION

In view of the remarks set forth herein, the application is believed to be in condition for allowance. Should any issues remain, the Examiner is encouraged to telephone the undersigned attorney.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on March 8, 2004.	
 David M. Sigmond Attorney for Applicant	3, 8, 04 Date of Signature

Respectfully submitted,



David M. Sigmond  
Attorney for Applicant  
Reg. No. 34,013  
(303) 702-4132  
(303) 678-3111 (fax)

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